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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/121,781 07/23/98 LAROSA

G LKS98-04

EXAMINER

HM12/0619

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SALIMI, A

ART UNIT

PAPER NUMBER

1645

DATE MAILED:

06/19/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/121,781**

Applicant(s)  
**Larosa G. J.**

Examiner  
**A. R. SALIMI**

Group Art Unit  
**1645**



☒ Responsive to communication(s) filed on 11/8/99

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire One month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-52 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-52 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restriction*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, 45-51, and 52, drawn to antibody or antigen binding fragment which binds CC-chemokine receptor 2, a composition comprising an antibody, and a method of treating a CC-chemokine receptor 2 mediated disorder in patients, classified in class 436, subclass 548, class 424, subclass 143.1, class 530, subclass 388.75.
- II. Claims 9, 11, drawn to a specific hybridoma cell line and antibody produced by the said hybridoma, classified in class 435, subclass 235.1.
- III. Claims 10, 12, drawn to a second specific hybridoma cell line and antibody produced by the said hybridoma, classified in class 435, subclass 235.1.
- IV. Claim 13, drawn to a kit for detecting the presence of mammalian CC-chemokine receptor 2, classified in class 435, subclass 7.92.
- V. Claims 14-19, drawn to a method of inhibiting the interaction of a cell bearing mammalian CC-chemokine receptor 2 with a ligand thereof, classified in class 435, subclass 7.1.
- VI. Claims 20-25, drawn to a method of inhibiting HIV infection of a cell, classified in class 435, subclass 339.1.

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- VII. Claims 26, 27, 28, 29, drawn to a method of detecting expression and method of detecting of CC-chemokine receptor 2 or portions thereof, classified in class 435, subclass 7.2.
- VIII. Claims 30-32 drawn to method of inhibiting a function associated with binding a chemokine to a mammalian CC-chemokine, classified in class 435, subclass 335 .
- IX. Claims 33-38, drawn to a method of detecting or identifying an agent which binds a mammalian CC-chemokine receptor 2, classified in class 435, subclass 69.5.
- X. Claims 39, 40, drawn to a method of inhibiting HIV in patient, classified in class 424, subclass 208.1.
- XI. Claims 41-44, drawn to a method of inhibiting leukocyte trafficking in a patient, classified in class 424, subclass 173.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups I and V-XI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the antibody of group I can be utilized in a diagnostic assay .

Inventions of Groups I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

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separately usable. In the instant case, invention of Group I has separate utility such as inhibition of CC-chemokine receptor. See MPEP § 806.05(d).

Inventions of Groups I-III are mutually exclusive and patentably distinct products each are structurally and functionally different products which are made by different methods and have different uses. The examination of all groups would require different searches in the U.S. Patent Shoes and scientific literature and would require the consideration of different patentability issues.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A.R. Salimi whose telephone number is (703) 305-7136. The examiner can normally be reached on Monday-Friday from 9:00 Am to 6:00 Pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (703) 308-3995. The fax phone number for this Group is (703) 305-7401.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

A. R. Salimi

6/15/2000

  
**ALI SALIMI**  
**PATENT EXAMINER**